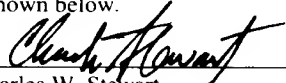




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Charles W. Stewart

Date: August 14, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS AND INTERFERENCES

In re application of)

BERNARDINUS H. BOSMANS,)
JOSE L. BRAVO, GERRIT KONIJN,)
And KAREL A. KUSTERS)

Serial No. 09/757,886)

Group Art Unit 1724

Filed January 10, 2001)

Examiner Charles S. Bushey

GAS-LIQUID CONTACTING TRAY)

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY BRIEF

This is a reply to the Examiner's Answer that was mailed July 16, 2003 in response to Appellants' appeal brief mailed May 21, 2003.

1. The Examiner has refused to enter Appellants' proposed amendment filed concurrently with their appeal brief on the alleged grounds that it raises new issues and does not place the application in better form for appeal.

Appellants respectfully suggest that the proposed amendment does not raise new issues and that it actually places the application in a better form for appeal. The proposed amendment to independent claim 7 is the same as the amendment made to the corresponding language of independent claim 1. In the Examiner's final office action, he indicates that the

anticipation rejection of claims 7 and 8 is maintained because claim 7 was not amended, as was claim 1. The same amendment of a similar claim therefore should not result in raising a new issue. Moreover, as the Examiner suggested, such an amendment of claim 7 would obviate the anticipation rejection thereof removing an issue from appeal. Therefore, Appellants respectfully assert that the amendment should be entered, and the argument expressed in Appellants' brief with regard to the patentability of claims 7, as amended, and 8 should be favorably considered.

2. The Examiner argues that the Board should affirm all the rejections of record because Appellants have stated in their appeal brief that the appealed claims stand or fall together. The statement concerning the grouping of the claims, however, was made in error. At the very least, the claims that are at issue in each of the specific grounds of rejection should be grouped together as a separately patentable invention.

3. The Examiner's response to Appellants' argument that the cited prior art fails to disclose all the elements and limitations recited in claims 6, 9 and 10 is only that he alleges the arguments to be neither appropriate nor persuasive. Appellants therefore reassert the arguments expressed in their brief and assert that the Examiner's response is insufficient to address Appellants' arguments.

4. The Examiner's response to Appellants' reference to the requirements of the MPEP § 2125 and to the teachings of the Kister publication amounts to a tacit admission that the drawings of EP 0 092 262 fail to disclose specific dimensions of Appellants' claimed invention and that the Kister publication may teach away from Appellants' recited dimension. It is improper for the Examiner to summarily disregard the prior art teachings cited by Appellants without proper rebuttal and citation of contradictory prior art.

Conclusion

In view of the arguments advanced in their Appeal Brief and those expressed herein, Appellants respectfully request the reversal of the Examiner's final rejection of the claims 1 – 10.

Respectfully submitted,

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